

**MAINE JUDICIAL BRANCH
THE STATE OF THE JUDICIARY**

**A Report to the Joint Convention of the First Regular Session
Of the 127th Legislature**

**Presented by Chief Justice Leigh I. Saufley
February 24, 2015**

Efficiency and Innovation

Thank you, President Thibodeau. Good Morning, Governor LePage, Speaker Eves, Honorable Members of the 127th Maine Legislature, Probate Judge Dubois, and citizens of the great State of Maine.

My incredible husband, Bill Saufley, sometimes known as the “long-suffering” Bill Saufley, joins me today. And with him are my parents, Jan and Dick Ingalls, who taught me so much about the value of hard work and collaboration.

And, of course, with me today are the members of the Maine Supreme Judicial Court and the Trial Court Chiefs. It is an honor for me to work every day with this wonderful, dedicated group of judges.

It is also a particular honor to be presenting this report this year, in 2015.

Eight hundred years ago this year, in 1215, in a field in Runnymede, England, King John set his seal to the Magna Carta, the document that created some of the most important modern concepts of liberty and justice.

You may be aware that the Magna Carta is understood to have created the foundation of the Rule of Law. But you may not be aware that Justice Donald G. Alexander, the longest serving judge ever to grace the benches in Maine, was there when it was signed!

Many of you may not have had the opportunity to meet the newest member of the Supreme Judicial Court, so I want to take a minute to introduce Justice Jeffrey Hjelm.

Justice Hjelm served in both the District and Superior Courts. He was a trial judge for 22 years before his appointment last fall to the SJC. He has extensive

experience with jury trials, and, given his earlier work in the Criminal Division of the Attorney General's Office, he brings a wealth of experience in criminal process and sentencing. He is well known for his thoughtful and thorough work, and I am delighted to have the opportunity to work with him on the SJC.

The Chief

I also want to take just a minute to say goodbye to one of my heroes.

This past December, we lost Chief Justice Vincent McKusick, who died at the age of 93. The Chief, as we all called him, had a very full career in private practice before serving as the Chief Justice from 1977 to 1992. It is particularly fitting to salute him today because, as Chief Justice, he had a special focus on the relationships among the branches of government.

For those of you who are historians, we understand that the first Chief Justice to present a report regarding the State of the Judiciary in Maine to the Maine Legislature was Chief Justice Armand Dufresne, in 1977. CJ Dufresne was also our very first Franco-American Chief Justice.

Chief Justice McKusick, noting the value of communication among the branches, helped make that address a tradition. He was the first Chief who was regularly invited to speak to the Maine Legislature, eventually providing the annual presentation that brings us here today.

The Chief was a man of towering intellect, and more than that, he was a gentleman. His non-partisan, collegial, and respectful approach to cross-branch relationships helped make my presentation here today possible. Many of you remember his kind, warm style, and I will always be grateful for his support as I took on a job he had done so well.

The Past

And with that, I present to you—the State of the Judiciary in Maine.

I begin with a bit of context. For more than a dozen years, I have talked with Maine Legislators about the need to support a solid system of justice for Maine people. During that time, the Judicial Branch has had to address the chronic underfunding of justice in Maine.

Ten years ago, in 2005, the resource limitations on the provision of justice were so severe that I dispensed with the ordinary annual report and made a direct appeal to this august body. I told Legislators then that the resources for providing justice in Maine were “woefully inadequate.”

The result of that underfunding was evident throughout the system:

Many courthouses were in disrepair;

Too many were physically inaccessible;

Court safety was non-existent; and

Reduced budgets had resulted in vacancies that created unconscionable delays.

The situation was truly dire.

The Efforts at Improvement

Given this background, I am particularly pleased to be presenting this report on the State of Maine’s Judiciary, because today I bring you good news.

I am pleased to report that, with legislative support, and the support of Governor LePage, we are turning the corner.

Over the last several years, we have been able to improve facilities, accomplish consolidations, redirect resources, and implement changes that make the Judicial Branch more efficient and more responsive to the public.

Although much remains to be done, and I will give you a road map for some of that work later this morning, I first want to take a moment today to celebrate the improvements that have been achieved.

Security

First and foremost, our courthouses are safer.

Entry Screening has been instituted in courthouses through out the State, and the final steps are at hand to make it available nearly every day in every court.

We must be able to tell everyone coming to court in tense and dangerous situations, including victims of domestic violence, that, at least within the courthouse, they are safe.

We are almost there. Your support for that aspect of the Governor's budget will make it a reality.

Facilities

Second, there have been substantial improvements in many courthouses.

In renovating and repairing Maine's courthouses, we have taken the opportunity to consolidate facilities.

Ten court buildings in four cities have been consolidated into four buildings in Houlton, Dover-Foxcroft, Bangor, and Augusta.

The resulting consolidations provide much more effective public service. The buildings require only one team of marshals for entry screening and one team of clerks, and they allow for greater collaboration among trial judges. Public confusion about which courthouse to go to has been eliminated.

In the last 12 years, we have reduced the number of court facilities from 47 to 39, without sacrificing access to justice in our rural regions. Every one of the consolidations improves efficiency and public service. Projects in Oxford, Franklin, York, and Waldo Counties, where three of the county courthouses are more than 100 years old, are next on the drawing board. We will be talking to you about those needs soon.

Clerks

At the same time, we have consolidated most of our clerks' offices so that 42 formerly separate units are now organized into 27 units. This has allowed us to use existing positions more effectively.

Service Center

We have been able to repurpose some of those existing positions to create a central phone bank of highly trained, customer service oriented staff to respond to questions that come into the courts by phone. The public response has been uniformly positive, and the goal is to expand the Service Center statewide.

Technology: Case Management System & eFiling

And, with the support of the 126th Maine Legislature and the Governor, this year we will begin the digital upgrade to create eFiling for Maine's courts.

This has taken months of planning, including learning what other states have done right, and what they have done wrong. We have involved representatives of state government and other stakeholders to assure that we are creating a system that is integrated and effective throughout the state. And soon we will be ready to publish the RFP and issue the bond approved by the 126th Legislature.

Capital Judicial Center

Finally, regarding efficiencies, let me tell you about the extraordinary improvement in public service that will be demonstrated in the brand new Capital Judicial Center, which opens for business next Monday. Justice Jabar has taken the lead on guiding the work for this new building.

The Capital Judicial Center will consolidate all trial court functions in Augusta under one roof, replacing three facilities with one. And thanks to KVCAP, a new bus stop will provide public transportation right to the courthouse door.

In addition to the trial courts, all Augusta based Judicial Branch administrative offices, including the technology center, will be in the new building.

Like the old Kennebec County Courthouse, which opened in 1830 (two years before this very State House) the new courthouse, fit for the State's Capital, is designed to serve the public for generations to come.

It is filled with natural light, and, from the public spaces, the view of the Kennebec River, the lifeblood of the region, will be featured everywhere.

There are multiple mediation and conference rooms, wide corridors for safety, and a more private space for filing domestic violence documents.

It is built, in great part, with Maine's natural resources: the beautiful granite is from Jay, much of the lumber is from Maine forests, and the woodwork was milled in southern Maine.

Most of the businesses and individuals who worked on the building were from Maine. During the height of construction, more than 100 people were employed daily on site.

It will be LEED certified and energy efficient, taking advantage of new natural gas lines and a design that makes the best use of its southern exposure.

It is attached by a sky-bridge to the venerable county courthouse, so that the beautiful old courtroom, which will now be upgraded for ADA compliance and for technology, will be a seamless part of the new courthouse. Maintaining that historic courtroom, which we could never replicate today, was a high priority.

This project represents the best of bi-partisan government collaboration. It was initially proposed in the 124th Legislature, and approved by Governor Baldacci. Each successive Legislature and Governor LePage have continued to support the project.

The end result is a building that has been completed on time, and on budget, and that will stand as a symbol for justice in the State's Capital for the next two hundred years.

We will have a grand opening on Law Day, May 1st, and I hope that all of you will be able to join us.

As the Capital Judicial Center opens, and the Washington County Courthouse addition and renovation in Machias are completed later this year, we are well on our way to a cost-efficient, solid facility infrastructure for the next century.

Process Improvements

At the same time that we have been laying the groundwork for a more efficient and productive infrastructure, we have undertaken several projects to reform court process.

Why are we focusing on improving process?

You have all heard the phrase:

Justice Delayed is Justice Denied.

Although it sounds like a platitude, it is truly a description of reality.

If you are a victim of crime who must wait for trial so long that the witnesses no longer recall events with accuracy,
If you are a ten-year-old child waiting to learn which school district you will attend while your parents' divorce remains pending,
If your plans to expand a business get tied up in court,

You know what Justice Delayed really means.

And I would add to that phrase:

Justice that is too expensive is no Justice at all.

Justice that is financially out of the reach of the litigants cannot be tolerated. Any court process that includes non-productive trips to the courthouse creates impediments to achieving the Justice we all seek.

Therefore, we are working on improving all court procedures to streamline the process.

The Business and Consumer Docket

A good example of improved process can be found in the Business and Consumer Docket, which now handles 100 or more complex business cases every year. As a result of intense judicial management, cases accepted into the Business and Consumer Docket benefit from an average completion time of less than eleven months—for case types that once required three to five years to complete!

The Unified Criminal Docket

The latest court project to streamline proceedings is the Unified Criminal Docket. We began the Unified Criminal Docket as a pilot project in 2009 in Cumberland County, and it was expanded to Bangor in 2011. In the last year, several more counties have streamlined their criminal process, and by July 1, 2015, the Unified Criminal Docket will be implemented statewide.

By eliminating the existing two-tiered process, we have created a system where a schedule of every court event in a criminal case is produced on the first day that the defendant appears in court. This process respects the serious aspects of criminal law, while at the same time ending the practice of requiring crime victims, witnesses, lawyers, and defendants to appear repeatedly without resolution.

This docketing change has substantially reduced the time for resolution of criminal cases. I am grateful for the skills of Justice Gorman, who has been the primary architect and judicial guide for this docketing innovation.

The focus on criminal process is critically important right now and leads me to address the challenges we face and where we need further improvement.

In Fiscal Year 2014, almost 56,000 new criminal cases were filed in the trial courts.

Domestic Violence

Despite the consistent efforts of law enforcement, the victim advocates, the court system, and the Governor, the Attorney General reports that 21 homicides occurred in Maine in 2014 and that fourteen of those homicides involved domestic violence. As you heard during the State of the State, eight of those who were murdered were children.

We must do better.

Drug Addictions and Drug Affected Babies

And we also know from the Attorney General that there is another tragedy affecting Maine's children every day. In 2012, 779 babies were born into a world where their first experience was detoxifying from drugs.

In 2013 that number climbed to 927, and last year saw a new record of 961. This is almost 8% of the live births in our small state—one out of every twelve babies born in Maine is affected at birth by drug abuse, a tragedy of enormous proportions.

It is clear that our efforts to eliminate drug addiction and address family violence must be redoubled. The Drug Treatment Courts for families, veterans, and people with mental illness will need your support this session. Please help.

In addition, the pending proposal for four new judge positions could not come at a better time.

The trial judges' ability to reach the relentless arrival of new criminal cases is strained to the maximum right now.

To assist the trial courts, the Supreme Court deferred its own caseload in January to allow Supreme Court judges to assist with the trial court caseload. Justice Alexander led the SJC in assisting the trial courts with the unceasing caseload. We are hopeful that these efforts will help the entire system, but more judges are necessary if we are to keep up with the demands.

Access to Justice

Another impediment to accessing justice in Maine, as in every other state, is the inability of so many people, even those with modest incomes, to afford legal assistance.

Even the best, most efficient court proceedings require the expertise of lawyers to assist the litigants. We do not expect people to diagnose and treat their own illnesses, nor should it be acceptable that they are unassisted in critical, life-changing legal proceedings.

We are very fortunate to have Justice Mead leading the efforts to improve access to justice, and working with a legal profession that is among the most generous in the country.

Maine lawyers donated more than \$2 million dollars in free legal services to people in need in 2014, and Maine lawyers and judges reached deep into their own pockets to give more than half a million dollars to the Campaign for Justice, which provides funds for legal services for low-income and elderly people.

Justice Mead will be here next week in the Hall of Flags with the civil legal services lawyers to provide you with more information that may assist you in helping your constituents.

NEW INITIATIVES

Finally, in keeping with our efforts to reform process, I am very pleased today to launch a new initiative:

All three branches of government have come together to create

The Maine Task Force on Pretrial Justice Reform.

Context is helpful.

In 2005, the Legislature asked the Corrections Alternatives Advisory Committee to obtain a study of Maine's pretrial case processing. The Committee reported back in 2006 with recommendations for changes and improvements throughout the criminal justice system: in the jails, with law enforcement, in the courts, with bail commissioners, with the lawyers.

Some changes were accomplished, and the reduction in criminal backlogs accomplished by the Unified Criminal Process is one significant improvement. But many recommendations have yet to be addressed.

At the same time, I don't need to tell you that the costs of Maine's jails have been ever increasing.

We know that more than 60% of the people held in county jails are in pretrial status.

- Some are serious flight risks, others present a very real risk of danger in their communities;

- Some are there because they failed to appear in court to address an unpaid fine;

- Some are there because they failed to appear for a charge that would not have resulted in a jail sentence;

- Some are there because they do not have the necessary funds to post cash bail;

- Others are waiting for a bed in a treatment facility;

- Many are mentally ill and unable to control their behaviors long enough to stay out of jail.

Defendants who present a risk of flight or violence need the attention and resources of the jails. But many others could be better addressed with the focused attention of less costly resources.

We are not the only state that is struggling with these challenges. In the last several years, there have been a number of efforts throughout the country to address overcrowding in community jails.

Information is emerging regarding a number of promising practices that may help turn this around.

The goals are simple:

- Reduce the financial and human costs of unnecessary incarceration

- Without compromising individual or community safety or the integrity of the criminal justice system.

There is a growing body of research that tells us that reaching these goals is possible.

The research supports the adoption of effective practices such as:

- Enhanced risk assessment;
- Diversion of non-violent offenders into community-based programs;
- Development of supervised, meaningful community services programs; and
- Case management and diversion programs that require:
 - The acceptance of personal responsibility,
 - Sobriety, and
 - Continued employment.

At the same time, these new evidence-based practices can help identify offenders who pose a serious risk of violence. This allows a critical focus on enhancing public and victim safety.

In Kentucky, a pilot project demonstrated a 15% reduction in pretrial violence while achieving substantial reduction in the costs of local jails. The Kentucky study also demonstrated that improved risk assessment can be “highly accurate” at identifying the small group of defendants who are at an elevated risk of committing violence if released before trial.

The national research demonstrates the long-term benefits of risk assessments and better attention to suitability for pretrial release. Objective risk assessments provide an additional means for ensuring that neither a person’s poverty nor a person’s ethnicity leads to unnecessary pretrial incarceration.

And there is more emerging information:

The initial research demonstrates that the pretrial incarceration of low-risk offenders creates a higher risk of recidivism in later years.

But the pretrial incarceration of high-risk offenders, those who may be violent, appears to actually *reduce* recidivism after a conviction.

Put bluntly, without better up-front assessments, pretrial detention may make less dangerous people more dangerous, and we may be missing the need to detain people who currently present a serious threat for violence.

The Maine Legislature has already mandated risk assessment for domestic violence charges. Applying similar tools to other charges could be equally effective.

Therefore, in collaboration, the Judicial, Executive, and Legislative Branches will bring together some of the best minds in Maine on issues of criminal justice. Justice Robert Mullen will Chair the Task Force, bringing a wealth of experience in both trial courts and in working with the bail commissioners.

We will ask the Task Force to study the research that has been undertaken nationally, look at what is working and what is not working in Maine and in other states, and make proposals for improvements in time for consideration in the second regular session.

I am grateful for the support of Governor LePage, President Thibodeau, Speaker Eves, and Minority Leaders Senator Alfond and Representative Fredette, and Attorney General Mills. They have each agreed to name members to serve on this Task Force.

We have also received commitments from the prosecutors, law enforcement, the Sheriffs' Association, the Victims' Advocates, and the defense bar to join this effort.

It is time for us to take on this challenge.

Working together, we could make real, lasting improvements for Maine.

WE NEED YOUR HELP

Finally, as I said when I began, we are starting to turn the corner, but we have an enormous amount of work ahead of us.

Here are the things that you can do to make sure your constituents have safe, prompt access to justice when they need it:

1. Support the Governor's budget proposed for the Judicial Branch
 - a. Safer courthouses are critical to these efforts.
 - b. More judges are desperately needed.
 - c. Jurors should be appropriately compensated for their time and for the miles they drive to perform their civic duties.

2. Visit courthouses

- a. Mary Ann Lynch will make arrangements for you to shadow a judge, see a courthouse that serves your District, and spend time watching justice in action.
 - b. Talk with us about High School Appellate Arguments.
 - i. Last year, we had terrific experiences at Presque Isle High School, Mattanawcook, and Yarmouth.
 - ii. This year, in October, we will sit in Hermon, at Senator Gratwick's invitation, and at Mt. Blue in Farmington, at the invitation of the very patient Senator Saviello. We have one opening still available. Contact Mary Ann Lynch.
 - iii. We hope that many of you will join us for those arguments.
3. Finally, keep working with us on innovations. While I will admit that the courts are not an institution that changes on a dime, we want to be responsive to the justice needs of your constituents. Keep talking to us.

Thank you for your time and attention, and your support for Justice in the State of Maine.